



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 22 2015

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Thomas E. Mesevage  
Vertellus Specialties Inc.  
900 Lanidex Plaza, Suite 250  
Parsippany, NJ 07054

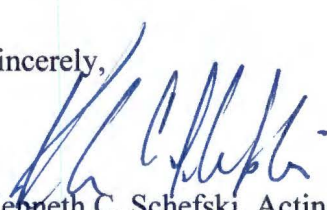
Dear Mr. Mesevage:

Enclosed please find a **NOTICE OF DETERMINATION** concerning violations of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601 *et seq.*

The United States Environmental Protection Agency (EPA) is in receipt of your letters dated April 24, 2015, May 8, 2015, and May 20, 2015, in which you reported possible noncompliance with the significant new use notification requirements under section 5 of TSCA and 40 C.F.R. Part 721.3110 by Vertellus Performance Materials Inc. (VPM). Based on your letters to the Agency, we have determined that VPM has met the nine conditions of EPA's Final Policy Statement, Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations, 65 Fed. Reg. 19,618 (April 11, 2000) (Audit Policy) and therefore, EPA will not seek a civil penalty in this matter.

Should you have any questions regarding this letter, please contact Mr. Tony Ellis of my staff at (202) 564-4167.

Sincerely,

  
Kenneth C. Schefski, Acting Director  
Waste and Chemical Enforcement Division  
Office of Civil Enforcement

Enclosure

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY**

**IN THE MATTER OF:**

Vertellus Performance Materials Inc.  
2110 High Point Road  
Greensboro, NC 27403

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Docket No. TSCA-HQ-2015-5014

**NOTICE OF DETERMINATION**

1. Pursuant to the Policy on Incentives for Self-Policing (Audit Policy), 65 Fed. Reg. 19,618 (April 11, 2000), the U.S. Environmental Protection Agency (EPA or Agency) hereby issues this Notice of Determination (NOD) regarding violations voluntarily disclosed to EPA by Vertellus Performance Materials Inc. (VPM) for the following facility:

Vertellus Performance Materials Inc.  
2110 High Point Road  
Greensboro, NC 27403

**Preliminary Statement**

2. VPM performed a voluntary environmental audit of its facility and identified violations to EPA uncovered by the audit. As an incentive for regulated entities to conduct independent environmental compliance audits and disclose any violations, EPA may eliminate or substantially reduce the gravity-based component of civil penalties to be assessed for violations that are voluntarily disclosed in compliance with the conditions specified in the Audit Policy.

**Findings of Fact**

3. The violations subject to this NOD were initially disclosed to EPA by VPM in letters dated April 24, 2015, May 8, 2015 and May 20, 2015.

4. VPM violated the Toxic Substances Control Act (TSCA) section 5 manufacturing and processing notices requirements when it failed to comply with significant new uses notification requirements for a chemical substance as described under 40 C.F.R. Part 721.3110.

5. Based on information provided by VPM, for the disclosures identified above, EPA has determined that VPM has met each of the following conditions set forth in the Audit Policy:

(a) VPM has stated the violations were discovered through an environmental audit.

(b) VPM has stated the violations were identified voluntarily, not through a monitoring, sampling or auditing procedure required by statute, regulation, permit, judicial order, administrative order, consent decree or consent agreement.



- (c) The violations were promptly disclosed and submitted in writing by VPM.
- (d) VPM has stated the violations were identified and disclosed prior to the commencement of a federal, state, or local agency inspection, investigation, or information request, notice of a citizen suit, legal complaint by a third party, or imminent discovery by a regulatory agency.
- (e) VPM has stated it has taken the appropriate steps to correct and remedy its TSCA section 5 manufacturing and processing notice requirement as it pertains to the customer notification requirements required under 40 C.F.R. Part 721.3110 and 40 C.F.R. Part 721.5.
- (f) VPM has stated to EPA that it has taken steps to prevent a recurrence of the violations.
- (g) VPM has stated the violations at issue or closely related violations have not occurred previously within the past three years at the same facilities and are not part of a pattern of violations on the part of VPM within the past five years.
- (h) VPM has stated the violations at issue have not resulted in serious actual harm to human health or the environment, and that the violations have not presented an imminent and substantial endangerment to public health or the environment. Furthermore, VPM has stated the violations at issue do not violate the specific terms of any judicial order, administrative order, consent decree or consent agreement.
- (i) VPM has cooperated with EPA and provided the information necessary for the Agency to determine the applicability of the Audit Policy to its disclosure.

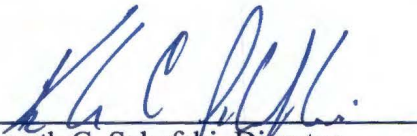
#### **Determination**

6. Based on the review of information and documentation received and in reliance on the VPM certifications, EPA has determined:

- (a) VPM has met all of the conditions of the Audit Policy and is eligible for a waiver of the total gravity-based civil penalty for the disclosed violations;
- (b) VPM accrued no significant economic benefit of noncompliance as a result of the violations described herein;
- (c) Pursuant to the Audit Policy, EPA will not assess a civil penalty against VPM for the disclosed violations; and
- (d) VPM has corrected the section 5 violation for this chemical substance by ceasing production of the chemical substance and ensuring that their customers are properly informed of the existence of the Significant New Use Requirements as described under 40 C.F.R. Part 721.3110. Additionally, the company has quarantined the chemical stocks that were returned by their customer as described in their aforementioned disclosure letters. Based upon VPM's corrective actions, EPA is granting permission for the release of these stocks in accordance with all the requirements as described under Part 721.3110.

### Reservation of Rights

7. If, and to the extent that, any information or statement provided by VPM upon which this NOD is based was materially false or inaccurate at the time such information or statement was provided to EPA, EPA reserves the right to revoke this NOD and, thereby, render such NOD null and void. Such revocation shall be in writing and shall become effective upon receipt by VPM.
8. This NOD applies only to EPA's mitigation of the civil monetary penalties for the violations disclosed. If, and to the extent that, any information or statement provided by VPM upon which any civil penalty mitigation granted herein for such violations was based was materially false or inaccurate at the time such information or statement was provided to EPA, EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. Such revocation shall be in writing and shall become effective upon receipt by VPM.
9. Nothing herein shall be construed to limit the authority of EPA and/or the United States to undertake action against any person, including VPM, in response to any condition which EPA or the United States determines may present an imminent and substantial endangerment to the public health, welfare or the environment. Furthermore, issuance of this NOD does not constitute a waiver by EPA and/or the United States of its right to bring an enforcement action, either civil or criminal, against VPM for any other violation of any federal or state statute, regulation or permit.
10. In issuing this NOD, EPA seeks to promote self-auditing and full compliance by VPM with all environmental requirements and to continue the internal procedures necessary to prevent recurrences of violations of environmental requirements.

  
Kenneth C. Schefski, Director  
Waste and Chemical Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency

Date: 5/22/15